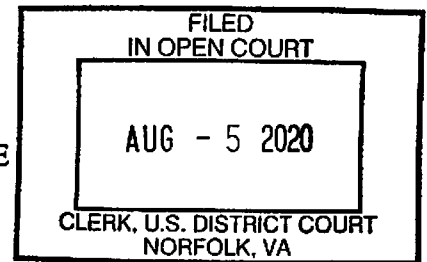


IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Norfolk Division



UNITED STATES OF AMERICA

v.

JOHN MALCOLM BARESWILL,

Defendant.

No. 2:20-cr- 61

STATEMENT OF FACTS

By signing below, the parties and their respective counsel agree that if this case had gone to trial, the government's evidence would have established the following facts beyond a reasonable doubt:

1. On or about Sunday, June 7, 2020, at approximately 10:44 a.m., an employee of the New Hope Baptist Church ("Witness 1") received a phone call on the church's landline telephone while she was conducting an adult Sunday School class; Witness 2 and several minor children were in the room with her at the time.

2. New Hope Baptist Church is a predominantly African American church located in Virginia Beach, Virginia, within the Eastern District of Virginia.

3. Witness 1 answered the call and placed the call on speakerphone, at which point she heard a man speaking; the man said words to the effect of, "You [n-words] need to shut the fuck up," and threatened to burn the church. Witness 2, who was present for the Bible study, was also listening to the call on speakerphone and heard the caller use the n-word and make a threat. Minutes after the caller hung up, Witness 1 wrote an email to one of the church's pastors stating

Three handwritten signatures or initials are located in the bottom right corner of the page. The top one appears to be "OB", the middle one is a stylized "B", and the bottom one is a more complex signature.

that, "During our Sunday School Class there was a t[h]reaten[ing] call," and that the threat was, "you [n-words] need to shut up, burning the church."

4. Officers of the Virginia Beach Police Department obtained phone records for the church's phone line and confirmed that the church had received one incoming call, from telephone number 757-705-****, during the time the threatening call was placed. Officers determined that the number belonged to the defendant.

5. Records obtained from the defendant's cellular service provider revealed that the defendant's phone had placed an outgoing call to the church's number on June 7 at 10:44 a.m., which corresponded to the church's records showing an incoming call from the defendant's number at the same time. The service provider records also showed that the caller had used the prefix code "*67" before placing the call. The "*67" code blocks the originating caller's number from being identified by the recipient's caller identification function. Furthermore, records indicated that the defendant had placed a call to the same church the day before, on June 6, 2020, at 5:29 p.m.; however, that call was not answered.

6. On June 9, 2020, investigators interviewed the defendant and conducted a consensual search of his mobile telephone. The defendant confirmed that mobile telephone number 757-705-**** was his personal number and that the device was in his possession throughout the morning of June 7, 2020.

7. An FBI forensic examiner created a digital image of the phone, which the defendant consented to. Upon review of the phone's contents, investigators discovered that the defendant recently had used the phone to search the internet for several phrases, including: "Who said all

whites are racist,” “Black Lives Matter protest held in Virginia,” and “Who organized the protests from mount trashmore to town center.”

8. A prominent member and pastor of the church had participated in a rally and prayer vigil at Mount Trashmore Park in Virginia Beach on Tuesday, June 2, 2020, where he advocated for justice for George Floyd, a more diverse local police force, and a boycott of local businesses. The defendant had viewed news articles online that identified the pastor and the church shortly before making his first phone call to the church on Saturday, June 6, 2020.

9. The defendant had also recently searched the internet for the phrases “why are n***** protesting and looting” and “kkk stickers.” Furthermore, the review of the phone revealed that its user recently had searched for information about at least three predominantly African American religious institutions in the area, including the church that received the threatening telephone call. He had placed another call to at least one other African American church in the Eastern District of Virginia, but that call was not answered.

10. The defendant’s use of a nationwide mobile phone service provider and a mobile phone manufactured outside of the United States to place the call qualifies as “the use of the ... telephone ... or other instrument of interstate or foreign commerce” for purposes of 18 U.S.C. § 844(e).

11. The defendant acknowledges that he placed the threatening call to the New Hope Baptist Church on June 7, 2020.

12. The acts taken by the defendant in furtherance of the offense charged in this case, including the acts described above, were done willfully and knowingly with the specific intent to violate the law.

AB
B
AP/3

Respectfully submitted,

G. Zachary Terwilliger
United States Attorney


By:




Andrew Bosse
Assistant United States Attorney

AB
ID
gms

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.


John Malcolm Bareswill, Defendant

I am the attorney for defendant. I have carefully reviewed the above Statement of Facts with him. His decision to enter into this factual stipulation is knowing, intelligent, and voluntary.


James Broccoletti, Esq.
Defense Counsel